

Here are some interesting pieces of e-news.  
Enjoy!!!  
Ken

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\*\*\*\*\* [hipaalert] H I P A A L E R T - l i t e April 16, 2001  
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H I P A A L E R T - l i t e April 16, 2001  
>> From Phoenix Health Systems...HIPAA Knowledge...HIPAA Solutions <<  
> Healthcare IT Consulting & Outsourcing <

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H I P A A n e w s

\*\* Bush Medical Privacy Act Is Part of Wider Strategy \*\*  
April 13, 2001 President Bush's decision to implement new medical privacy protections, while shocking health-care industry officials, is part of a much broader presidential intention: he intends to back a wide range of privacy protections for U.S. consumers, even though his business allies sometimes will object, aides say.  
<http://www.hipaadvisory.com/news/2001/wsj0413.htm>

\*\* Organizations React to HIPAA Privacy Announcement \*\*  
Numerous industry organizations and interest groups were quick to react to DHHS' announcement that the Privacy Rule would go into effect on April 14, as scheduled. For comments ranging from disappointment to applause from the AHA, Blue Cross Blue Shield, the AAHP, HIAA, AMA, the Health Privacy Project, the ACLU and others, go to  
<http://www.hipaadvisory.com/views/april01.htm>

\*\* Opponents Hoping For Changes In Medical Privacy Rule \*\*  
As reported the April 13 Congress Daily, some members of Congress and healthcare providers were disappointed by DHHS' announcement that the HIPAA medical privacy regulations

would take effect as planned Saturday.

<http://www.hipaadvisory.com/news/2001/cd0412.htm>

\*\* Interest Groups, Academics Urge Bush to Hire Privacy Leader \*\*

In a letter sent April 16, 2001, a diverse group of advocacy organizations and academics called on the Director of the Office of Management and Budget to hire a Chief Privacy Counselor.

<http://www.hipaadvisory.com/news/2001/CDT416.htm>

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H I P A A l a t e s t

NEW IN HIPAAZINE:

- Designing Hospital Security, by Stephanie Slahor, IndustryClick  
The critical assets of a hospital - its people, property, information and reputation - must be protected with good security.

<http://www.hipaadvisory.com/news/hipaazine.htm#hospital>

- The Other Privacy Law: Preparing for the Gramm-Leach-Bliley Act, by Reece Hirsch, Davis Wright Tremaine LLP. While HIPAA has grabbed more headlines, for many health plans and insurers, the most urgent privacy and security legal compliance issues in the coming months will involve the Gramm-Leach-Bliley Act ("Gramm-Leach").

<http://www.hipaadvisory.com/news/hipaazine.htm#glbact>

NEW IN HIPAAVIEWS:

- Myths and Facts about the HIPAA Privacy Regulation

<http://www.hipaadvisory.com/views/Patient/myths.htm>

NEW IN HIPAAUDIO:

- HIPAA-In-the-Trenches Audioconference  
Hands-on HIPAA for Managers & Dept Heads  
May 2nd & 9th

<http://www.hipaadvisory.com/action/signup/trenches/>

\*\*\*\*\* [hipaalive] Privacy Rules 4-14 \*\*\*\*\*

\*\*\* This is HIPAAlive! From Phoenix Health Systems \*\*\*

A few thoughts on the Privacy rule.

1) I think DHHS did the right thing by allowing the Privacy rule to stand. To have further delayed the rule would have sent the wrong message to the health care industry. It also would not have been right to penalize those entities that did the right thing by beginning to address HIPAA Privacy and Security early in the process. Now we have the opportunity to refocus the energy spent on killing the rule to complying with the rule.

- 2) However, there is no doubt that the Privacy rule can use a little tweaking. I do not think anyone, including DHHS, expected DHHS to create a 1535 page document that was perfect the first time around. There are already provisions in place to allow modification of the rule prior to the compliance date (technical changes and changes at the one year anniversary). I do not expect the rule to require Machiavellian machinations in order to comply. There is no intention to force entities to do anything that would compromise patient care or that would be unreasonable.
- 3) Before Sec. Thompson opened the Privacy rule to an additional 30 day comment period, WEDi had already taken testimony through the WEDi Success Policy Advisory Group (PAG) and scheduled a meeting of the WEDi Privacy PAG for the purpose of soliciting industry input for the WEDi Board to use in recommending changes in the Privacy rule to DHHS. Those recommendations were made and sent to DHHS on March 27, 2001. See WEDi's letter of comment on the Privacy rule at <http://www.wedi.org/public/articles/index.cfm?cat=2>
- 4) After April 14, Congress cannot "cancel" the rules using the Congressional Review Act.
- 5) Congressional representatives can introduce any legislation they want. It doesn't mean that it will go anywhere. Anytime Congress is in the mood, they can pass comprehensive privacy legislation that supercedes HIPAA and any of the rules. That could be a good thing because Congress could then address protection of identifiable health information for ALL entities maintaining identifiable health information, not just providers, health plans and clearinghouses. That would eliminate the need for the business associate contract provision. Congress could also supercede state law, which would significantly reduce the administrative burden of covered entities. However attractive that may be, I don't think that is very likely in the foreseeable future for same reasons we don't have comprehensive privacy legislation today.

Thanks,

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\*\*\*\*\* [hipaalive] TCS Upcoming HIPAA SSO Open Meetings \*\*\*\*\*  
\*\*\* This is HIPAAlive! From Phoenix Health Systems \*\*\*

For those of you who may be interested, a listing of regularly scheduled HIPAA Standards Setting Organization (SSO) meetings that will take place during the next two months has been posted on the May and June calendar pages at <http://www.hipaadvisory.com/news/calendar/index.htm>.

These SSO's have responsibility for various portions of the HIPAA

electronic transactions. Their meetings are open to all -- for an attendance fee -- and are the best places to learn about HIPAA transactions as well as influence their future directions. Sessions for newcomers are provided at each of the meetings.

Dave Feinberg  
Co-Chair, HIPAA Implementation Work Group  
Insurance Subcommittee (X12N)  
Accredited Standards Committee X12  
Voting Member, HL7 and X12  
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\*\*\*\*\* [hipaalert] Reminder! Audioconference - HIPAA-IN-THE-TRENCHES: Hands-on HIPAA \*\*\*\*\*

It's official! The HIPAA Privacy Rule is now in effect.  
If your organization has been waiting till now to plan  
its HIPAA compliance approach, it's time to sign up for:

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\*\* HIPAA-IN-THE-TRENCHES: Hands-on HIPAA \*\*

For Managers & Department Heads  
2-part Audioconference program plus follow-up Q/A Forums

Sign up at:

<http://www.hipaadvisory.com/action/signup/trenches/index.cfm>

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#### OVERVIEW:

In two, jam-packed 90-minute audio sessions...  
What every healthcare manager and compliance team member must know about HIPAA and the new Privacy Rule, Transactions, Code Sets, Identifiers, and the Security regulations. A hands-on, practical workshop covering how HIPAA implementation will impact individual departments within healthcare organizations, and how to conduct cost-effective gap analyses, compliance project planning, and enterprise-wide implementation.

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PART I: Wednesday, May 2, 2001 - 2 PM Eastern

\*\* Transactions, Code Sets and Security \*\*  
90-minute AudioConference, plus follow-up Q/A  
via Expert Web Forum through Friday, May 4

PART II: Wednesday, May 9, 2001 - 2 PM Eastern

**\*\* Unique Identifiers and Privacy \*\***

90-minute AudioConference, plus follow-up Q/A  
via Expert Web Forum through Friday, May 11

See detailed course description and sign up at:

<http://www.hipaadvisory.com/action/signup/trenches/index.cfm>

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**MORE INFO:**

If you will be in the trenches of actual HIPAA compliance planning, assessment and implementation for your organization, you need practical answers to practical questions. The top level HIPAA summaries you may have received are important -- but if you and your compliance team members are going to turn HIPAA into an action plan that makes practical and financial sense for YOUR organization, you need more.

Here it is. In two intensive audio sessions. HIPAA's implications, reg by reg, department by department, in detail. Plus solid, project planning guidelines based on Phoenix Health Systems' well- researched and documented compliance methodology.

BONUS! Don't overlook our follow-up 3-day online Q/A forums following each session. "E-consultants" from our HIPAA Solutions Team will answer any and all questions you and other participants post that result from the audioconferences.

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**WHO WILL BENEFIT?**

For healthcare managers, department heads, professionals, technical and administrative staff, and others who will lead or be involved in enterprise-wide or departmental HIPAA assessment and implementation.

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See detailed course description and sign up at:

<http://www.hipaadvisory.com/action/signup/trenches/index.cfm>

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"the HIPAA hub of the Web" (Modern Healthcare, 10/2000)

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FORWARD this posting to interested associates, who may subscribe free to HIPAAAlert at:

<http://www.hipaadvisory.com/alert/>

\*\*\*\*\* [hipaalive] PRIVACY: Minimum Disclosure and the Info Systems Dept  
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\*\*\* This is HIPAAlive! From Phoenix Health Systems \*\*\*

I want to reinforce Luba's response and add a bit. "Minimum necessary" determinations must be made for all USES, even for treatment purposes. (Note that disclosures to a provider or requests by a provider for treatment purposes are exempted--but not uses, even for treatment. See section 164.502, subd. (b)(2)(i). I'd be delighted to have someone point me to the portion of the Final Rule which does exempt uses for treatment from the minimum necessary determination.)

The process needed is, again as Luba described, a policy/procedure development which addresses the scope of PHI needed for each type/category of employee to perform his/her job. If full access to all PHI is indeed the "minimum amount necessary" for the IS analysts to do their job, then the policy should reflect that. Note that absent a clear policy determination, provision to anyone (excepting patient authorized disclosures, disclosures to the Secty of DHHS, and disclosures to providers for treatment purposes) of the entire medical record is a violation of the Rule. (See 45 CFR section 164.514, subd. (d)(5)), found at 65 Fed. Reg. 82819 (December 28, 2000).)

Hope this adds a bit.

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Legal Counsel  
Sharp HealthCare  
San Diego, CA  
858-499-4022

\*\*\*\*\* Privacy Assessment Tool  
\*\*\*\*\*

\*\*\* This is HIPAAlive! From Phoenix Health Systems \*\*\*

Privacy Assessment Tool  
Charles:

I would advise you to look at the HIPAA Early View tool that the North Carolina Healthcare Information and Communications Alliance <http://nchica.org> put together. I do believe that we will update the tool as soon as we have final regs. It is very in-depth, relatively very inexpensive and multi-department friendly. This is a statewide non-profit that is also involved in the HealthKey PKI initiative with 4 other states.

Eddie G. Anderson  
Secure Healthcare Resources

email [eddiea@coastalnet.com](mailto:eddiea@coastalnet.com)

\*\*\*\*\* Another website and conference ... for privacy officers  
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>>> "Ginger Cox" <[GCox@oshpd.state.ca.us](mailto:GCox@oshpd.state.ca.us)> 04/11/01 02:49PM >>>  
The Privacy Officers' Association is sponsoring a conference, titled the First Annual Privacy & Data Protection Summit, is being held from May 2nd - May 4th.

The web site is: <nswer<http://www.privacyassociation.org>> . It costs \$248 for individual membership.

Cheri Huber, Office of the Napa County Counsel (707-253-4523), will be attending this conference.

\*\*\*\*\* HIPAALERT - Apr. 12: BUSH DECIDES: PRIVACY RULE GOES INTO EFFECT  
APRIL 14 \*\*\*\*\*

>>> <[info@phoenixhealth.com](mailto:info@phoenixhealth.com)> 04/12/01 07:51AM >>>

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H I P A A L E R T: NewsBrief      Thursday, April 12, 2001

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\*\* BUSH DECIDES: PRIVACY RULE GOES INTO EFFECT APRIL 14 \*\*

April 12, 2001 -- President Bush has decided to not delay the HIPAA Privacy Rule any further. In a statement issued today, Department of Health and Human Services (DHHS) Secretary Tommy Thompson reported that President Bush has reaffirmed that the controversial rule will become effective on Saturday, April 14th. Most covered entities will have until April 2003 to come into compliance.

Thompson said that over 24,000 comments had been received during the March comment period. Many were "clearly part of mass mailing efforts in support of a particular view or concern."

DHHS intends to address the following concerns raised in the comments through implementation guidelines and modifications.

- Doctors and hospitals will have access to necessary medical information about a patient they are treating and they will be able to consult with other physicians and specialists regarding a patient's care.

- Patient care will be delivered in a timely and efficient manner and not unduly hampered by the confusing requirements surrounding consent forms. For example, pharmacists will be able to fill subscriptions over the phone and serve their customers in a timely manner.
- Parents will have access to information about the health and well-being of their children, including information about mental health, substance abuse or abortion.

Full text of DHHS statement:

<http://www.hipaadvisory.com/news/2001/dhhs0412.htm>

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\*\*\*\*\* medical privacy rules.....la times \*\*\*\*\*

Bush Lets Medical Privacy Rules Take

Effect, With Caveats

By EDMUND SANDERS, Times Staff Writer

WASHINGTON--In a rare defeat for business, the Bush administration said Thursday it would let a set of controversial medical privacy regulations take effect immediately but would later seek to modify the regulations to address health care industry concerns.

The surprising decision clears the way for implementation of the first federal medical privacy protections. The health care industry had launched an aggressive campaign to kill or

postpone

the rules, which were issued in the waning days of the Clinton administration under the authority of a 1996 law.

The regulations, which will limit the disclosure and

distribution

of patient records, had been put on hold by Health and Human Services Secretary Tommy G. Thompson, who appeared sympathetic to industry complaints.

As late as Wednesday, it was widely expected that Thompson would push back the original April 14 effective date to buy time to review more than 24,000 comments submitted



during the last two months. But President Bush, who has expressed a strong personal interest in protecting the privacy of medical and financial records, directed otherwise.

"President Bush wants strong patient privacy protections put in place now," Thompson said in a statement issued Thursday.

Bush, in a statement of his own, said: "For the first time, patients will have full access to their medical records and more control over how their personal information will be used and disclosed."

The American Civil Liberties Union and Public Citizen had threatened to sue HHS if the rules were delayed. Others suggested the White House was swayed by growing public anxiety over the privacy of personal information.

In a nod to industry groups, however, Bush asked HHS to recommend making the rules more appealing to hospitals, insurers and drug companies.

Health care lobbyists had complained that the rules would cost billions of dollars to implement and might interfere with patient care by making it harder for doctors to discuss cases with one another. Pharmacists claimed the rules would complicate even simple tasks, such as picking up a prescription at the drugstore.

rules Thompson said the agency would seek to clarify that the

would not prevent doctors, hospitals or pharmacists from obtaining medical information needed to treat patients or fill prescriptions. Such changes could not take effect without a months-long process of public comment and review.

the In a move certain to stir controversy, Thompson also said

agency would consider giving parents access to medical information about their children, including details about

substance

abuse, abortion and mental health problems.

Privacy advocates, while expressing concern about the proposed modifications, praised the Bush administration for allowing the rules to take effect.

a "We're very pleased that the administration did not give in to industry pressure," said Janlori Goldman, director of the Health Privacy Project at Georgetown University. "It seems there was

reversal internally."

But she and other privacy advocates said they would continue to monitor the proposed modifications to ensure the rules were not weakened.

seeking Many groups expressed opposition to giving parents access to their children's medical records, saying it would conflict with several state laws and might discourage teenagers from

pregnancy.

treatment for sexually transmitted diseases and during

"The Bush administration's signal that they will undo these protections is immoral, dangerous and unconstitutional," said Catherine Weiss, director of the ACLU's Reproductive Freedom Project.

Industry groups expressed surprise and disappointment but said they would attempt to work with HHS to modify the rules.

"There's going to be a continuing debate as to exactly what the revisions should look like," said Mary Greal, president of Healthcare Leadership Council, a trade group of health care executives that had pushed to delay the rule.

The privacy rules were mandated by Congress in the 1996 Health Insurance Portability and Accountability Act. They require doctors, hospitals and other health care providers to get a patient's written permission before disclosing medical

records.

Health care professionals must be in full compliance by 2003.

\*\*\*\*\* RX 2000 Conference

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>>> "Gelein, Judy (DHS-PSD-OMPS)" <[JGelein@dhs.ca.gov](mailto:JGelein@dhs.ca.gov)> 04/10/01 01:45PM >>>

-----Original Message-----

From: [Rx2000HIPAA@rx2000.org](mailto:Rx2000HIPAA@rx2000.org) [<mailto:Rx2000HIPAA@rx2000.org>]

Sent: Monday, April 02, 2001 8:52 PM

To: [Rx2000HIPAA@rx2000.org](mailto:Rx2000HIPAA@rx2000.org)

Subject: IMPORTANT ANNOUNCEMENT

Dear Rx2000 Colleagues and Friends:

The Health Insurance Portability and Accountability Act (HIPAA) launch clock is ticking toward nationwide implementation. This Rx2000 listserve, like others, is growing daily as increasing numbers of health care professionals log on to learn more about this far-reaching legislation. Finding and delivering the right answers to the American health care community is the Institute's goal. To that end, I am pleased to announce an important Rx2000 Institute West Coast event.

The Rx2000 Institute presents:

The HIPAA Challenge: Minimize Your Risk, Maximize Your Opportunity  
HIPAA and eHealth: Surviving and Thriving in a New Health Care Environment  
Click here to view the brochure.

May 23/24, 2001  
Airport Marriott Hotel  
Los Angeles, California

This one and a half-day conference will offer presentations from some of the nation's provider, payer, government and consulting sector leaders and policy experts on HIPAA implementation. . Tommy Thompson, the new Secretary

of Health and Human Services, has tentatively confirmed to offer an update on the latest HIPAA developments. California Governor Gray Davis is also invited to present his views on the state's HIPAA compliance efforts. A few of our other confirmed speakers include:

Michael Fitzmaurice of the Department of Health and Human Services who will provide a perspective on How HIPAA and eHealth can Improve Healthcare's Quality of Care.

Patrice Thaler of Allina Health System, Minneapolis, MN, who will offer her nationally recognized tutorial on HIPAA Transaction Sets and Security/Privacy Requirements.

Neville Bilimoria and Eric Sinrod of Duane, Morris & Heckscher, LLP, San Francisco, who will focus on "Reconciling HIPAA and California Laws."

Elizabeth O. Johnson, National HIPAA Practice Leader and Executive Vice President, Healthlink, Inc., Houston, TX, who will discuss EDI and ROI: Making HIPAA Profitable.

Melissa Jarriel, Director of Health Information Mgt. Systems & Lead Manager, HIPAA Project, Medical College of GA Hospitals and Clinics, Augusta, GA who will provide a case study on how to organize your project management office for HIPAA.

Reece Hirsh, Partner, Davis, Wright, Tremaine, San Francisco, CA who will lead a discussion on HIPAA and Gramm-Leach-Bliley: Making Sense of the Privacy Puzzle.

These speakers and others will present some of the most timely and important content of the year. They will focus on preparing for HIPAA, healthcare security and privacy, working with the government and the latest insights into eHealth initiatives. Additionally, as in our past conferences, we are offering our HIPAA and Transactions tutorial.

This Rx2000 West Coast Conference is enthusiastically endorsed and supported by the:

California Association of Health Plans  
California Association of Provider Organizations  
California Healthcare Association  
California Medical Association  
HFMA the Southern California Chapter  
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Palo Alto Medical Foundation

Please register now to attend this critically important West Coast event. A brochure containing full details including an agenda and description of our leading edge presentations can be downloaded from our website at <http://www.rx2000.org/events/CABrochure3.PDF>

<http://www.rx2000.org/events/CABrochure3.PDF>  
<<http://www.rx2000.org/events/CABrochure3.PDF>> .

Rx2000 Institute meetings have consistently been ranked as among the most relevant and informative in the nation. In addition, there is no finer networking and "problem-solving" forum than this national conference series. Please register soon to ensure your place at this timely conference. An online registration form including hotel reservation numbers is on our web site at <<http://www.rx2000.org/events/events.htm>>  
<http://www.rx2000.org/events/events.htm>  
<<http://www.rx2000.org/events/events.htm>> .

See you in California!

Joel Ackerman, Executive Director  
Rx2000 Institute

This Rx2000 Conference is sponsored by:

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\*\*\*\*\* Entity Definitions \*\*\*\*\*

\*\*\* This is HIPAAlive! From Phoenix Health Systems \*\*\*

Kepa and Marcallee have started an interesting conversation regarding clearinghouses, business associate status, and data quality. My thoughts...

I think the definition of "business associate" sheds some light on this. A BA provides a service "on behalf of" a covered entity. If the health plan contracts with a clearinghouse to receive standard transactions on its behalf, and convert them into a non-standard format (as an alternative to re-building its own systems), then the clearinghouse is the health plan's BA. However, if a clearinghouse is accepting non-standard transactions from providers, and converting these into standard format (on their behalf) for transmittal to health plans, then the clearinghouse is acting as a BA of the providers.

In the case of multiple clearinghouses trying to send converted standard transactions to a health plan, I think that the plan has to accept them. The plan can reject a transaction because it doesn't comply with HIPAA standards. Indeed it must, since it isn't allowed to conduct a covered transaction with another covered entity that is not a standard transaction. But I don't see where a health plan can reject a standard transaction because it is coming from a clearinghouse with a high error rate. As I read HIPAA, the health plan must react to each transaction as it is received, and may not discriminate among covered entities on the basis of accuracy rates.

Kepa, Marcallee: what do you think? Tom Hanks, are you out there?

Bill MacBain  
MacBain & MacBain, LLC  
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